

ACTION BY: State Educational Agencies

INFORMATION FOR: Regional Offices

Copyright of Materials Developed Under
the Nutrition Education and Training Program

I PURPOSE

Instruction sets forths regulations and policy regarding the copyright of materials developed with NET Program funds.

II AUTHORITY

Whether or not provided for in the terms of a specific grant, all grants under the Department's Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments are subject to Section 3016.34 which provides:

"The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

- (a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and
- (b) Any rights of copyright to which a grantee, sugrantee or a contractor purchases ownership with grant support."

One way that FNS may exercise its license is to authorize other States to copy such works pursuant to FNS programs.

III ABBREVIATIONS

CFR - Code of Federal Relations
FNS - Food and Nutrition Service
NET - Nutrition Education and Training
USDA- United States Department of Agriculture

DISTRIBUTION: NTSD,E	MANUAL MAINTENANCE INSTRUCTIONS: Remove FNS Instruction 798-1 from Manual. Insert this Instruction.	RESPONSIBLE FOR PREPARATION AND MAINTENANCE: NTSD-200	Page 1 9-18-90
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IV BACKGROUND

Section 19 of the Child Nutrition Act of 1966, as amended by Public Law 95-166, states: "The Secretary, in carrying out the provisions of this subsection, shall make grants to State educational agencies who, in turn, may contract with land-grant colleges..., other institutions of higher education, and nonprofit organizations and agencies, for the training of educational and school food service personnel with respect to providing nutrition education programs in schools and the training of school food service personnel in school food service management. Such grants may be used to develop and conduct training programs for early childhood, elementary, and secondary educational personnel and food service personnel with respect to the relationship between food, nutrition, and health; educational methods and techniques, and issues relating to nutrition education; and principles and skills of food service management for cafeteria personnel."

Section 19 specifies that "nutrition education programs shall include developing and using classroom materials and curricula." Circular 1, Copyright Basics, Copyright Office, Library of Congress, Washington, D.C., April 1988, lists the categories of copyrightable works, and coordinated copyright application forms give details about the works each category includes.

V POLICY

All materials and curricula developed with NET funds are subject to the copyright provisions contained in this Instruction. The State agency, subgrantees, or author may copyright any material developed in the course of, or specified in, a NET grant, contract, or agreement. Regardless of which party retains the copyright privileges, FNS shall retain a royalty-free license to reproduce, publish or otherwise use, and authorize State agencies to reproduce, publish or otherwise use the materials for FNS programs only. Authorization hereby is granted by the Department to State agencies participating in NET to duplicate the materials developed with NET funds in any State for use in FNS programs. However, this authorization does not permit reproduction for profit or any purpose other than use in FNS programs.

State agencies should be familiar with the authority provided in 7 CFR 3016.34 and take these rights into consideration when making any subgrants, contracts, or agreements for development of materials with NET funds.

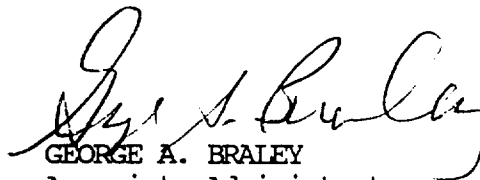
VI RESPONSIBILITIES

State agencies shall:

A Contact the FNS Regional Office if any question of possible infringement on the Department's rights arises.

B Include a copyright provision in any contract or agreement entered into for the development of nutrition education materials, training packages, or other program materials. This provision consists of a statement to the effect that "USDA reserves a royalty-free nonexclusive and irrevocable license to exercise, and to authorize others to exercise, the rights to reproduce and use for Federal Government purposes any original work of authorship prepared with grant support, including the right to authorize other States to copy such works pursuant to FNS programs."

C Establish procedures to assure that the Department's royalty-free provision is included in all grants, contracts, and agreements which involve outlay of NET funds.



GEORGE A. BRALEY
Associate Administrator